

Amendment No. 1 to HB0839

Howell
Signature of Sponsor

AMEND Senate Bill No. 1143

House Bill No. 839*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-50-502(a)(1)(H), is amended by deleting the subdivision and substituting instead the following:

(H) Has been finally convicted of any driving offense in any court and has not paid or secured any fine or costs imposed for that offense;

SECTION 2. Tennessee Code Annotated, Section 55-50-502(j), is amended by deleting the subsection and substituting instead the following:

(1) The court shall inquire of every licensee who is convicted of a driving offense whether the person requests to make payments pursuant to an installment payment plan.

(2) The clerk of any court that handles traffic citations shall offer a payment plan, which must be reasonable and based on a person's income and ability to pay, to any person convicted of a driving offense who requests to make payments pursuant to an installment payment plan. The person may request, and the court clerk shall grant, modifications to the payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request for modification is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modifications to the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

(3)

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(A) Any person who does not enter into a payment plan after being convicted of a driving offense is required to enter into a payment plan pursuant to this subsection (j) upon the person failing to timely pay the fines and costs ordered by the court and the provision of notice described in subdivision (j)(3)(B).

(B) Upon the person's failure to pay fines and costs by the date the assessed fines and costs are due, the court clerk shall notify the person of the outstanding balance owed and payment plan requirements in accordance with this subsection (j).

(4)

(A) The court clerk shall inform a person who enters into a payment plan pursuant to this subsection (j) that:

(i) Failure to timely make the payments as ordered by the court results in the suspension of the person's license and the issuance of a restricted license; and

(ii) Any default on the payment plan while the person is issued a restricted license results in the revocation of the restricted license and the person's driving privileges as described in subdivision (j)(6).

(B) The court clerk shall notify the department of a person's failure to comply with a payment plan established pursuant to this subsection (j).

(C)

(i) Upon notice of the person's failure to comply with the payment plan established pursuant to this subsection (j), the department shall

notify the person in writing of the pending suspension of the person's license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (j)(4)(C).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (j)(4)(C)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(4)(C)(ii), then the department shall not suspend the person's license.

(iv) If the person fails to reestablish compliance with the payment plan, petition the court clerk or court to demonstrate to the court clerk or court that the person complied with the court clerk's payment plan, or fails to demonstrate to the court clerk or court's satisfaction that the person complied with the court clerk's payment plan, then the court shall order the issuance of a restricted license upon the expiration of the thirty-day period.

(D) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall suspend the person's license. Upon the person presenting a certified copy of the court order and paying the application fee to the department

in accordance with subdivision (j)(5)(B), the department shall issue a restricted license in place of the suspended license.

(5)

(A) A restricted license issued pursuant to this subsection (j) is valid only for travel necessary for:

(i) Employment;

(ii) School;

(iii) Religious worship;

(iv) Participation in a recovery court, which includes drug courts under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22; DUI courts; mental health courts; and veterans treatment courts; or

(v) Serious illness of the person or an immediate family member.

(B) The order for the issuance of a restricted license must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of a driver license.

(6)

(A) If a person who is issued a restricted license fails to comply with a payment plan established pursuant to this subsection (j), the court clerk shall notify the department of the person's failure to comply with the payment plan.

(B)

(i) Upon notice of the person's failure to comply with the payment plan, the department shall notify the person in writing of the pending

revocation of the person's restricted license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (j)(6)(B).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (j)(6)(B)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(6)(B)(ii), then the department shall not revoke the person's restricted license.

(C) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall revoke the person's restricted license.

(D) No sooner than six (6) months from the date of revocation, a person whose restricted license is revoked pursuant to this subdivision (j)(6) may apply with the court clerk for a certification that the person is eligible to be reissued a restricted license; provided, that the person must be actively participating in an installment payment plan in accordance with subdivision (j)(2).

(E) Upon the person's application for a certification that the person is eligible to receive a reissued restricted license pursuant to subdivision (j)(6)(D), the court clerk shall certify whether the person is actively participating in a payment plan and request the reissuance of a restricted driver license for the

person if the person is otherwise eligible for a driver license. The certification must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle for purposes described in subdivision (j)(5)(A). The person may obtain a copy of the certification and, within ten (10) days after the certification is issued, present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the certification. After proper application and until the restricted license is issued, a copy of the certification may serve in lieu of a driver license.

(7) Notwithstanding this subsection (j), a person will be issued a restricted license or have the person's license reinstated only if the person is otherwise eligible for a driver license.

(8) The process described by this subsection (j) applies until the person fully pays the moneys owed the court or any outstanding fines or costs are waived by the court.

(9) If otherwise eligible for a driver license, any person whose driver license was suspended under subdivision (a)(1)(H), prior to July 1, 2019, for nonpayment of court costs or fines may apply to the court having original jurisdiction over the traffic offense for an order reinstating the person's license upon entering into an installment payment plan under this subsection (j). The person may present a certified copy of the court's order to the department of safety, which shall reissue a driver license at no cost to the person if the person is otherwise eligible for a driver license.

(10) A restricted license issued under this subsection (j) shall not be subject to the requirements of § 55-12-114(b).

SECTION 3. Tennessee Code Annotated, Section 55-50-502(d), is amended by deleting the language "subdivision (a)(1)(H) or (a)(1)(I)" wherever it appears and substituting instead the language "subdivision (a)(1)(I)".

SECTION 4. Tennessee Code Annotated, Section 55-50-303(e)(1), is amended by deleting the language "Failure to timely make the payments as ordered by the court shall result in the suspension of the restricted license."

SECTION 5. Tennessee Code Annotated, Section 40-24-105(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) Any person who is issued a license under title 55 and who has not paid all litigation taxes, court costs, and fines assessed as a result of disposition of any offense under the criminal laws of this state within one (1) year of the date of the completion of the sentence shall enter into an installment payment plan with the clerk of the court ordering disposition of the offense to make payments on the taxes, costs, and fines owed.

(2) The clerk of the court ordering disposition of an offense shall offer a payment plan, which must be reasonable and based on a person's income and ability to pay, to any person convicted of an offense under the criminal laws of this state who requests to make payments pursuant to an installment payment plan or who is required to enter into an installment payment plan in accordance with subdivision (b)(1). A person may request, and the court clerk shall grant, modifications to the payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request for modification is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modifications to the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

(3)

(A) The court clerk shall inform a person who enters into a payment plan pursuant to this subsection (b) that:

(i) Failure to timely make the payments as ordered by the court results in the suspension of the person's license and the issuance of a restricted license; and

(ii) Any default on the payment plan while the person is issued a restricted license results in the revocation of the restricted license and the person's driving privileges as described in subdivision (b)(5).

(B) The court clerk shall notify the department of a person's failure to comply with a payment plan established pursuant to this subsection (b).

(C)

(i) Upon notice of the person's failure to comply with the payment plan established pursuant to this subsection (b), the department shall notify the person in writing of the pending suspension of the person's license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (b)(3)(C).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (b)(3)(C)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (b)(3)(C)(ii), then the department shall not suspend the person's license.

(iv) If the person fails to reestablish compliance with the payment plan, petition the court clerk or court to demonstrate to the court clerk or court that the person complied with the court clerk's payment plan, or fails to demonstrate to the court clerk or court's satisfaction that the person complied with the court clerk's payment plan, then the court shall order the issuance of a restricted license upon the expiration of the thirty-day period.

(D) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall suspend the person's license. Upon the person presenting a certified copy of the court order and paying the application fee to the department in accordance with subdivision (b)(4)(B), the department shall issue a restricted license in place of the suspended license.

(4)

(A) A restricted license issued pursuant to this subsection (b) is valid only for travel necessary for:

(i) Employment;

(ii) School;

(iii) Religious worship;

(iv) Participation in a recovery court, which includes drug courts under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22; DUI courts; mental health courts; and veterans treatment courts; or

(v) Serious illness of the person or an immediate family member.

(B) The order for the issuance of a restricted license must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it, together with an application fee

of sixty-five dollars (\$65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of a driver license.

(5)

(A) If a person who is issued a restricted license fails to comply with a payment plan established pursuant to this subsection (b), the court clerk shall notify the department of the person's failure to comply with the payment plan.

(B)

(i) Upon notice of the person's failure to comply with the payment plan, the department shall notify the person in writing of the pending revocation of the person's restricted license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (b)(5)(B).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (b)(5)(B)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (b)(5)(B)(ii), then the department shall not revoke the person's restricted license.

(C) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall revoke the person's restricted license.

(D) No sooner than six (6) months from the date of revocation, a person whose restricted license is revoked pursuant to this subdivision (b)(5) may apply with the court clerk for a certification that the person is eligible to be reissued a restricted license; provided, that the person must be actively participating in an installment payment plan in accordance with subdivision (b)(2).

(E) Upon the person's application for a certification that the person is eligible to receive a reissued restricted license pursuant to subdivision (b)(5)(D), the court clerk shall certify whether the person is actively participating in a payment plan and request the reissuance of a restricted driver license for the person if the person is otherwise eligible for a driver license. The certification must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle for purposes described in subdivision (b)(4)(A). The person may obtain a copy of the certification and, within ten (10) days after the certification is issued, present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the certification. After proper application and until the restricted license is issued, a copy of the certification may serve in lieu of a driver license.

(6)

(A) Notwithstanding this subsection (b), if a licensee claims an inability to pay taxes, fines, or costs imposed for a disposition of any offense under the criminal laws of this state due to indigency, the court shall offer the person the opportunity to submit proof of the person's financial inability to pay, which may include a signed affidavit of indigency. For purposes of this subdivision (b)(6),

the standard for a claim of indigency is the same as for an indigent person, as defined in § 40-14-201.

(B) Upon proof of a person's financial inability to pay, the court shall suspend the person's taxes, fines, and costs for a period of one (1) year. No additional fines or costs accrue against the original taxes, fines, and costs as a result of or during the suspension of the person's taxes, fines, and costs. The court shall also order the person to reappear before the court upon the expiration of the one-year period for a reevaluation of the person's financial ability or inability to pay the taxes, fines, or costs. If, after the reevaluation, the person:

(i) Is no longer financially unable to pay or secure any portion of the taxes, fines, or costs in accordance with subdivision (b)(6)(A), the court shall reinstate the taxes, fines, and costs and apply subdivisions (b)(2)-(5); or

(ii) Remains financially unable to pay any portion of the taxes, fines, or costs, the court shall extend the suspension of the person's taxes, fines, and costs and order the person to reappear before the court for a reevaluation of the person's financial ability or inability to pay the fine or cost in accordance with this subdivision (b)(6)(B). The process described by this subdivision (b)(6)(B) applies until the person fully pays the moneys owed the court or any outstanding taxes, fines, or costs are waived by the court.

(7) Notwithstanding this subsection (b), a person will be issued a restricted license or have the person's license reinstated only if the person is otherwise eligible for a driver license.

(8) The process described by this subsection (b) applies until the person fully pays the moneys owed the court or any outstanding taxes, fines, or costs are waived by the court.

(9) If otherwise eligible for a driver license, any person whose driver license was revoked under this section, prior to July 1, 2019, for nonpayment of litigation taxes, court costs, and fines assessed may apply to the court having original jurisdiction over the offense for an order reinstating the person's license upon entering into an installment payment plan under this subsection (b) or the submittal of proof described in subdivision (b)(6). The person may present a certified copy of the court's order to the department of safety, which shall reissue a driver license at no cost to the person if the person is otherwise eligible for a driver license.

SECTION 6. Tennessee Code Annotated, Section 40-24-105, is amended by deleting subsection (h) in its entirety.

SECTION 7. This act shall take effect July 1, 2019, the public welfare requiring it.